

Pax Christi Aotearoa-New Zealand

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The Clerk of the Committee
Marine and Coastal Area (Takutai Moana) Bill
Ministry of Maori Affairs
Parliament Buildings
Private Bag
Wellington

Submission on Marine and Coastal Area (Takutai Moana) Bill

This submission is being made on behalf of Pax Christi Aotearoa-New Zealand, the New Zealand section of an international peace movement which originated in the Catholic Church in France in 1945 at the end of World War II. Pax Christi International now has more than 50 members worldwide and has representation at the United Nations, the European Union and the Human Rights Council in Geneva. The New Zealand section was registered as a charitable trust in August 1993 and has its national office at 2F/22 Emily Place, Auckland.

General Position on the Foreshore and Seabed Issue

Pax Christi would like to reiterate the position it outlined in its submission to the Fisheries and other Sea-related Legislation Select Committee on 1 July 2004 (slightly modified) and in its submission to the Foreshore and Seabed Act Review Committee in April 2010.

Our position on all issues relating to the Foreshore and Seabed remains:

- The 2004 Act in its entirety should be repealed
- Any further consideration by Parliament of issues relating to the seabed and foreshore should take into account the following recommendations of the Waitangi Tribunal Report (Wai 1071) on the Crown's Foreshore and Seabed Policy of January 2004:
 - A longer conversation with Maori
 - Provide for access and inalienability to the foreshore and seabed subject to customary rights
 - Improve the Court's tool kit by giving the Maori Land Court power to recognise rights other than fee simple
 - Protect *mana* by confirming Maori ownership while providing for joint control, management and public access in line with the example provided by Ngati Whatua o Orakei Maori Trust Board
 - Be consistent by using the same model which provided for the return of ownership of the Central North Island lakes to Tuwharetoa and Te Arawa

Our perusal of the present Marine and Coastal Area (Takutai Moana) Bill notes a continuing three-fold prejudice against Maori:

- Mana Maori and self-determination re property rights are lost

- Maori are rendered powerless
- Maori citizenship is devalued

(Waitangi Tribunal 1071)

We see in the present Bill no reason to change our previous contention that

- There are serious breaches [in the Bill] of Articles 2 and 3 of *Te Tiriti o Waitangi*
- Crown policy as represented in this Bill is not necessary to protect New Zealanders as Maori have shown in many instances that the interests of all New Zealanders are provided for when ownership is vested in *hapu* and *iwi*
- New Zealand has already come under international sanction re its human rights policy relating to the whole treatment of Foreshore and Seabed issues.
- The Bill shows once again, the weakness of our human rights laws and the dangers of unbridled parliamentary sovereignty.
- We do not support the options or process proposed in the Bill except in their overall intention of repealing the Act and engaging in consultation with *Tangata Whenua*.

A Further Consideration

Ongoing debate, reaching back to the time of the signing of *Te Tiriti* itself over this and other issues relating to the *Whenua*, makes it clear that there is a vast gap in understanding of the relationship between people and land across the signatories of *Te Tiriti* and their descendants. This has certainly been shown in the discussions around the ‘ownership’ of the foreshore and seabed.

We have been greatly impressed by an outline of concepts involved in the issue from a Maori point of view set out in a paper by Moana Jackson (“The Notion of *Tipuna* Title as a *Tikanga* Construct re the Foreshore and Seabed” March 26 2010). Jackson makes clear in his paper the “essential baselines which underpin *tipuna* title” and also the understanding of ‘land ownership’ which Maori signatories would have taken to the signing of *Te Tiriti o Waitangi* and which many of their descendants still hold. Our consideration of this concept convinces us that this understanding held by Maori and its consequent approach to all things to do with the land/*Whenua* should be regarded as a *taonga* and protected in turn by Article 2 of *Te Tiriti o Waitangi*. Any other understandings of land ownership, as Jackson implies, are secondary in the discussion relating to the foreshore and seabed. Any solution to the issue depends upon the coexistence of these two different concepts of relationship of people to land.

Recommendations

- **We seek the repeal of the Foreshore and Seabed Act 2004.**
- **We recommend that *Tipuna* Title be recognised as the essential basis of Maori claims to the foreshore and seabed.**
- **That the longer conversation sought by the Waitangi Tribunal be a means of reconciling differences in concepts of ownership between the signatories of *Te Tiriti o Waitangi* and their descendants.**

Request to be heard

Pax Christi Aotearoa-New Zealand wishes to be heard in person, preferably in Auckland, to speak to our submission.

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